



# Commonwealth of Massachusetts State Ethics Commission

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**SUFFOLK, ss.**

**COMMISSION ADJUDICATORY  
DOCKET NO. 645**

## **IN THE MATTER OF PETER VALLIANOS**

### **DISPOSITION AGREEMENT**

The State Ethics Commission and Peter Vallianos enter into this Disposition Agreement pursuant to Section 5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented-to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, §4(j).

On January 17, 2001, the Commission initiated, pursuant to G.L. c. 268B, §4(j), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Vallianos. The Commission has concluded its inquiry and, on April 11, 2001, found reasonable cause to believe that Vallianos violated G.L. c. 268A.

The Commission and Vallianos now agree to the following findings of fact and conclusions of law:

#### **Findings of Fact**

1. Vallianos was, during the time relevant, the chairman of the Monterey Zoning Board of Appeals ("ZBA"). As such, Vallianos was a municipal employee as that term is defined in G.L. c. 268A, §1.

2. Vallianos is a private attorney. He was hired by Monterey residents Georgianna and Daniel Eschen to assist them in the purchase of a cottage in Monterey.

3. The Eschens sought a ZBA special permit to expand the cottage at 11 Sylvan Road by creating an addition that would connect to the existing structure and become the new living quarters for the family. The existing structure would be renovated and be used to display the family's collection of ocean liner memorabilia. The existing structure was on a non-conforming lot.

4. The ZBA scheduled July 7, 2000 as the hearing date for the Eschens' special permit application. At some point prior to the hearing date, Vallianos informed the ZBA secretary that he should not be scheduled to participate in the hearing because he was the Eschens' attorney. The secretary scheduled an alternate ZBA member to take Vallianos' place at the hearing. Vallianos attended the hearing. Vallianos became significantly involved in the hearing. During the public comment portion of the meeting, Vallianos stated that because he was the Eschens' attorney, he knew he could not represent them during this hearing. Vallianos then stated that he would be available to ZBA members to answer any questions they might have. Vallianos subsequently contributed extensively to the discussion preceding the vote. In response to

questions from board members, Vallianos informed the ZBA of the existing structure's dimensions and then discussed with the board the size of the lot and the proposed addition, and the set-back requirements. The discussion lasted approximately 20 minutes.

5. Vallianos was not compensated for his appearance at the ZBA hearing.

#### Conclusions of Law

6. Section 17(c) of G.L. c. 268A prohibits a municipal employee, otherwise than in the proper discharge of official duties, from acting as attorney for anyone other than the municipality in relation to a particular matter in which the town has a direct and substantial interest.

7. The ZBA's decision whether to grant a special permit was a particular matter in which the town had a direct and substantial interest.

8. By appearing before the ZBA and advocating on the Eschens' behalf regarding their application, Vallianos acted as the Eschens' attorney.

9. Vallianos' appearance was in relation to the permit, which is a particular matter.

10. Vallianos' appearance was not within the proper discharge of official duties.

11. Therefore, by acting as the Eschens' attorney in relation to a particular matter in which the town had a direct and substantial interest, Vallianos violated §17(c).

12. It is no defense that Vallianos, as described above, stated, prior to his participating at the July 7, 2000 meeting, that although he was the Eschens' attorney, he was not there to represent them. Vallianos had been retained by the Eschens to act as their attorney regarding the purchase of the cottage and the subsequent permitting issues. He attended the meeting because he had that attorney-client relationship and interjected himself significantly into the ZBA discussion of the permit. He had no independent interest in the matter separate from his role as attorney. Under the totality of the circumstances, therefore, he acted as the Eschens' attorney. Vallianos cannot avoid the conclusion that he acted as the Eschens' attorney merely by stating that he was not there to represent them when, in fact, that was what he was doing.

#### Resolution

In view of the foregoing violations of G.L. c. 268A by Vallianos, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Vallianos:

- (1) that Vallianos pay to the Commission the sum of \$1,250 as a civil penalty for violating G.L. c. 268A, §17(c): and
- (2) that Vallianos waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

**DATE: October 22, 2001**

